



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,216	06/15/2001	Robert L. Fitzsimmons JR.	VULC005/00US	5137

22903 7590 08/21/2007  
COOLEY GODWARD KRONISH LLP  
ATTN: PATENT GROUP  
Suite 500  
1200 - 19th Street, NW  
WASHINGTON, DC 20036-2402

EXAMINER
----------

FATAHI YAR, MAHMOUD

ART UNIT	PAPER NUMBER
----------	--------------

2629

MAIL DATE	DELIVERY MODE
-----------	---------------

08/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/881,216

Applicant(s)

FITZSIMMONS, ROBERT L.

Examiner

Mike Fatahiyar

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-25 and 27-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-25 and 27-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. After perusal of the applicant's remarks in his Appeal Brief, applicants' arguments regarding "why one of skilled in the art would be motivated to combine the facility-focused portable device of King with the web-based customized advertising arrangement of LeMole", "King does not disclose or suggest associating any such input with the user" and "the concept of sending advertising as disclosed in LeMole is not on an input received when a visitor is in the public space" are persuasive and, thus, finality of the rejection of the last Office action is hereby withdrawn.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-25 and 27-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al(6,169,498B1) in view of Ogasawara(6,123,259).

King et al disclose a method and an apparatus for supplementing an experience of a visitor to a public space including a plurality of public space elements and information relating to the plurality of public space elements(column 2, lines 51-67) comprising a portable device(10) which has a transceiver(12) which is a PDA having wireless capability for receiving e-mails(i.e., connecting to a network) enabling a visitor to proactively select information relating to a plurality of the public space elements as

Art Unit: 2629

the visitor is within the range of a particular public space element(column 5, lines 1067)

Note, the portable PDA is also capable of receiving audio, video, text and image content relating to the public space element(see columns 3-4 and figure 1). King et al substantially show all the features of the above claims except for the "associating the received input with identification information associated with the visitor", "receiving an electronic request for additional information.....", "sending supplemental information to the visitor when the visitor is outside of the public space based on the received input associated with the identification information related to the visitor", "transmitting a response over a second network" . However, Ogasawara discloses an electronic personal shopping system having a mobile terminal(5) for receiving an input relating to an item when the visitor is in the public space and associating the received input with a unique identifier associated with the visitor(column 2, lines 16-67; column 7, lines 25-43; column 8, lines 13-20; column 10, lines 25-57), receiving an electronic request for supplemental information from the visitor when the visitor is outside the public space and sending supplemental information to the visitor when the visitor is outside the public space based on the received input and the received request(i.e, when the visitor gets home, he connects his IC card to his home computer for the system to recommend a replenishment list based on the purchased history which is made up of purchases items and their identifiers(see Figs. 5A and 5B; column 11, lines 35-67; column 12, lines 1-67; column 13, lines 3-60; column 15, lines 50-67) ). As to the limitation "transmitting a response(i.e., supplemental information) to the visitor when the visitor is outside the public space over a second network", since the internet is disclosed in Ogasawara as a

Art Unit: 2629

communication network between the home P.C. and the store server for uploading the shopping list once compiled, it would have been obvious to add to Ogasawara using the internet as a communication network, as well, since the network is readily available, to provide the user with reverse flow of information, the replenishment and promotional items list, as additional information based on the purchased artifacts identifiers, as claimed. Thus, it would have been obvious to one of ordinary skill in the art to modify the system of King et al with the above noted teachings of Ogasawara such that to send supplemental information to a visitor of a public space via a second network when the visitor is outside of the public space based on a received input including a unique identifier associated with a visitor because firstly both systems are directed to providing information related to a public space to a visitor, secondly both systems have the capability to be connected to internet for retrieving supplemental information and further because sending a targeted or specific information based on a user's profile or identification is a conventional technique in the environment of location-specific messaging system for advertisement.

4. Applicant's arguments with respect to claims 21-25 and 27-41 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Fatahiyar whose telephone number is (571)272-7688. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

Art Unit: 2629

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RICHARD HJERPE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600



M. Fatahiyar  
August 19, 2007